Rep. Hank Vaupel (District 47)

From: Council for Citizens Against Government Waste <ccagw@ccagw.org>
Sent: Thursday, March 8, 2018 3:38 PM
To: Council for Citizens Against Government Waste
Subject: Oppose HB 5223

COUNCIL *for* CITIZENS AGAINST GOVERNMENT WASTE

Thomas A. Schatz, *President*
1100 Connecticut Ave., N.W., Suite 650
Washington, D.C. 20036
ccagw.org

March 8, 2018

Michigan House of Representatives
Health Policy Committee
100 North Capitol Ave
Lansing, MI 48933

Dear Representative,

You are scheduled to hear HB 5223 on Wednesday, March 14, 2018, which would impose extraordinarily burdensome requirements on prescription drug manufacturers and stifle innovation, while doing nothing to lower prices. On behalf of the 60,210 members of the Council for Citizens Against Government Waste (CCAGW) in Michigan, I urge you to oppose this destructive legislation.

The Federal Trade Commission (FTC) has acknowledged that disclosure of pricing information could undermine beneficial market forces within the industry, leading to higher prices – not lower ones. A July 2, 2015 FTC policy paper states, "But transparency is not universally good. When it goes too far, it can actually harm competition and consumers. Some types of information are not particularly useful to consumers, but are of great interest to competitors. We are especially concerned when information disclosures allow competitors to figure out what their rivals are charging, which dampens each competitor's incentive to offer a low price, or increases the likelihood that they can coordinate on higher prices."

HB 5223 requires a report to be filed to the Department of Health and Human Services for any drug that has a wholesale acquisition cost (WAC) of $10,000 or a course of treatment with a WAC of $10,000 or more. The WAC is essentially a list price and does not account for rebates, discounts, and other price concessions given for pharmaceutical distribution.

The reams of data that will be collected, much of it proprietary, would not accurately reflect the cost paid by consumers, would be of little value, and will not lower drug costs. For example, it could be difficult to calculate the cost to develop a particular drug. Often, a drug is shelved because it is not effective for the indication pursued. However, it may be researched later for another indication that is successful. Furthermore, many drugs never make it out of clinical trials because they are not safe or effective, yet the researchers must still be paid.

The bill also demands a comparison between the U.S. price and international prices. But this is comparing apples to oranges, because most foreign countries use price controls to determine drug costs, not the free

market, while free-riding on U.S. taxpayers and patients for pharmaceutical innovation. While the U.S. is miles ahead of everyone else in drug development and innovation, fairer trade deals could lead to other countries paying their fair share of biopharmaceutical research.

This legislation is nothing but a fishing expedition that will do nothing to lower costs. If anything, this bill will raise drug costs because of the extra accountants, lawyers, and auditor who will be needed to produce the data in a timely manner to avoid the fine of $100,000.00.

The commission that is to be formed to collect and analyze the data to provide ways to mitigate prescription drug costs will likely lead recommend destructive price controls, which never work as intended. Price controls always destroy the free-market and harm innovation. This commission will cost the state money that could be better spent on delivering healthcare to needy citizens.

The price of prescription drugs generates much media attention and controversy, and it is understandable that legislators, government officials, and consumers are expressing their concern. But, the best approach to lowering drug prices is an environment that fosters competition and innovation. It takes 10 to 12 years to get a new drug through the Food and Drug Administration (FDA) approval process, which costs an average of $2.6 billion. Fortunately, Congress has taken steps to speed up clinical trials and the approval process, though more remains to be done.

One way to lower prices would be for Michigan legislators to ask their U.S. congressional delegation to continue to hold the FDA's feet to the fire to make sure the backlog of generic drugs awaiting approval can be cleared. This would be a far more effective way to help bring down the price of prescription drugs than passing this harmful and counterproductive bill.

Again, I urge you to oppose HB 5223.

Sincerely,

Thomas Schatz

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